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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,247	11/02/2001	David Lahiri Bhatoolaul	15-29-7-12	2775

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Lucent Technologies Inc.
Docket Administrator (Room 3J-219)
101 Crawfords Corner Road
Holmdel, NJ 07733-3030

EXAMINER

NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,247

Applicant(s)

BHATOOLAUL ET AL.

Examiner

David Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/12/04 have been fully considered but they are not persuasive.

In response to applicant's Remarks, applicants argue: " The cited Gray reference merely discloses sending a binary indication that the battery charge is either above a threshold or that the battery charge is below the threshold. In accordance with the amended independent claims, user equipment sends an actual battery usage level, which thereby allows a base station to decide whether or not a certain transmission should be undertaken."

Examiner respectfully disagrees because **the actual battery usage level** is not mentioned in the amended independent claims. In the amended independent claims only mention the level of charge of the battery and communicating level of charge data. The cited Gray reference merely discloses sending a binary indication that the battery charge is either above a threshold or that the battery charge is below the threshold as mentioned by Applicants in the Remarks. Therefore, The cited Gray reference merely discloses the level of charge of the battery and communicating level of charge data of the amended independent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,6 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Gray et al. (US 6,275,712B1).

Regarding claims 1,6 and 11, Gray et al. discloses a computer program, a method and a battery operated user equipment for use in a radio telecommunications network, including means for monitoring the level of charge of the battery (fig. 1, battery monitor 26) and means for communicating level of charge data to a base station (see col. 2, lines 14-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray et al. (US 6,275,712B1) in view of Goetz et al. (US 6,349,204 B1).

Regarding claims 2-3 and 7-8, Gray et al. does not disclose including a data store and means for configuring the equipment to receive files automatically and store them in the data store, or to retrieve files from the data store and transmit them, without activating any sounder or

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vibrator for alerting the user; including means for monitoring the available data storage capacity of the data store and communicating available storage capacity data to the base station.

However, Goetz et al. discloses a data store and means for configuring the equipment to receive files automatically and store them in the data store (see col. 4, lines 34-41; fig. 1; monitoring & control 6; col. 6, lines 4-14, lines 28-32), or to retrieve files from the data store and transmit them, without activating any sounder or vibrator for alerting the user; means for monitoring the available data storage capacity of the data store and communicating available storage capacity data to the base station (see col. 4, lines 34-41; fig. 1; monitoring & control 6; col. 6, lines 4-14, lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide above teaching of Goetz to Gray et al so that files downloaded can be stored in the user's equipment to avoid re-downloading.

4. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray et al. (US 6,275,712B1) in view of Goetz et al. (US 6,349,204 B1) and further in view of Brown et al. (US 6,185,423 B1).

Regarding claims 4 and 9, the battery operated user equipment for use in a radio telecommunications network of Gray et al. in view of Goetz et al. does not disclose means for estimating which one of a plurality of available physical channels would best conserve battery charge, and for signaling the identity of that channel to the base station during call set up.

However, Brown et al. discloses means for estimating which one of a plurality of available physical channels would best conserve battery charge, and for signaling the identity of

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that channel to the base station during call set up (see col. 3, lines 25-44 and fig. 1; sorting a list of available channels based on signal strength to save power battery).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide above teaching of Brown et al. to the method of Goetz in view of Gray et al in order to save power and increase device battery life.

5. Claims 5,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray et al. (US 6,275,712B1) in view of Goetz et al. (US 6,349,204 B1) and further in view of Katsuki (GB 2337423A).

Regarding claims 5 and 10, the battery operated user equipment for use in a radio telecommunications network of Gray et al. in view of Goetz et al. does disclose including means for estimating whether the available data storage capacity is/are sufficient to allow reception or transmission of each file, with or without a predetermined reserve (see explanation in claims 3). The method does not disclose the state of charge of the battery is/are sufficient to allow reception or transmission of each file, with or without a predetermined reserve, and for denying reception or transmission if the state of charge is insufficient.

However, Katsuki discloses means for estimating whether the state of charge of the battery is/are sufficient to allow reception or transmission of each file, with or without a predetermined reserve and for denying reception or transmission if the state of charge is insufficient (see page 6, lines 17 to page 7, line 5 and page 18, line 10 to 21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide above teaching of Katsuki to the method of Goetz in view of

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Gray et al in order to inform user that the equipment's battery power is enough to download the file.

Regarding claim 12, Gray et al and Goetz and Katsuki disclose a radio telecommunications network including battery operated user equipment, which equipment includes means for monitoring the state of charge of the battery; a data store; means for configuring the equipment to receive files automatically and store them in the data store, or to retrieve files from the data store and transmit them; and means for monitoring the available data storage capacity of the data store, the network including: means for estimating whether the state of charge of the battery and/or the available data storage capacity is/are sufficient to allow reception or transmission of each file, with or without a predetermined reserve, and for denying reception or transmission if the state of charge or the available data storage is insufficient (see explanation in claims 1-5).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Nguyen whose telephone number is 703-605-4254. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moise Emmanuel can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN

David Nguyen

cf. Moise
EMMANUEL L. MOISE
PRIMARY EXAMINER